IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 21030 of 2004

Between:

The Vijaya Cooperative Urban Bank Ltd.,(W), Road No.1, Banjara Hills, Hyderabad rep.by its Liquidator Sri G.Prasad Rao

... PETITIONER

AND

1 The Municipal Corporation of Hyderabad, Lower Tank Bund Road, Hyderabad
2 The Chief City Planner, Town Planning Section, Municipal Corporation of Hyderabad, Hyderabad
3 Smt.AV.Lakshmi, W/o A.Nagabhushanam, R/o 1-7-1002/23/1, Ramnagar, Hyderabad
4 Sri M.Raja Gupts, S/o Veeraiah Gupta, R/o 1-9-83 to 86, Ramnagar, Hyderabad
5 Smt.M.Rani, W/o Raju Gupta, R/o 1-9-86 to 86, Ram Nagar, Hyderabad

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in granting permission for new construction in the land bearing H.No.1-9-83 to 83, in Plot Nos.13 & 14, Sy.No.138, Ram Nagar, Zamisthanpur, Hyderabad to the 4th respondent as illegal, improper, against to the norms of the mortgage as well as against to the terms and conditions of the loan; principles of natural justice, besides being against to the directions of the Hon'ble High Court, while directing the respondents 1 & 2 to cancel the permission for new construction granted in favour of the 4th respondent forthwith whild restraining him from

proceeding with the further constructions in the said land, viz., H.No.1-9-83 to 86 Ramnagar, Hyderabad till the clearance of the loan liability due to the writ petitioner bank.

Counsel for the Petitioner: MR.BUJJIBABU DAVULURI

Counsel for the Respondents: MR.RAMA RAO GANTA

The Court, at the admission stage, made the following:

ORDER:

The present writ petition is misconceived. If the petitioner has any rights under the Mortgage Deed executed by respondents 3 to 5, who demolished the structure and obtained fresh permission for making construction on the said land, proper remedy for the petitioner is to approach the Civil Court or the Cooperative Tribunal for enforcement of the rights under the Mortgage Deed, if any. The Municipal Corporation cannot decide the rights and liabilities when an application is filed by the lawful owner seeking permission for construction of a building.

2. The writ petition is accordingly dismissed. No order as to costs.

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A. **GOPAL REDDY, J**

November 17, 2004

MRR

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1 The Municipal Corporation of Hyderabad, Lower Tank Bund Road, Hyderabad
2 The Chief City Planner, Town Planning Section,
Municipal Corporation of Hyderabad, Hyderabad
3 Two C.D. Copies.